IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

WP(C).No. 35078 of 2007(A)

PETITIONER:

SEBY P.MATHEWS, PLATHOTTOM,
POONJAR P.O.-686 581.

BY ADV. SRI.MATHEW JOHN (K)
SRI.AJEESH K.SASI

RESPONDENT:

FOOD CRAFT INSTITUTE (KERALA)
SOCIETY, KALAMASSERY.

BY SRI.K.GOPALAKRISHNA KURUP, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI,J.

W.P (C) No. 35078 of 2007

Dated this the 30th November, 2007

J U D G M E N T

Petitioner contends that he has passed a three year Diploma in Hotel Management and Catering securing 60% marks . He originally joined the respondent Society as a Guest Lecturer and has been continuing as Instructor in the Society from 2000 onwards. Exhibit-P3 notification was issued by the Society on 30.6.2007, inter alia, seeking applications to the post of Instructor. The maximum age limit prescribed in Exhibit-P3 to the post of Instructor is 40. Subsequently by Exhibit-P4 a fresh notification was issued by the respondent for the post of Instructor and Demonstrator. The age limit for the post of Instructor was reduced from 40 to 35. Moreover, it was made clear in Exhibit-P4 that rules of reservation are applicable to the selection in question. Petitioner challenges Exhibit-P4 notification, inter alia, on the ground that the reduction of the maximum age from 40 to 35 is invalid and at any rate unauthorised.

2. A similar contention was raised by another employee of the respondent in W.P. (C) 33604 of 2007 and this Court

rejected the contention and upheld the notification. An additional contention has been raised in this case to the effect that Exhibit-P4 notification which is at variance from Exhibit-P3 was not sanctioned by the Board of Governors of the respondent Society. The contention is that only the Board of Governors is competent to prescribe the qualifications, method of appointment and the age limit for any post in the Society. Subsequent to Exhibit-P3, the Board of Governors had not met and therefore Exhibit-P4 was not sanctioned by them.

3. Learned standing counsel for the respondent Institute referred to the Bye-laws of the respondent. Part II thereof deals with creation of posts and appointments. Clause I in Part II states that power of creation of posts should be vested solely is the Board on the recommendation of the Executive Committee. Appointment to posts so sanctioned are to be made by the authorities in the manner indicated therein. The Executive Committee is the appointing authority for the posts in Clause II and III. The post of Instructor is in Class III. Clause V of the Bye-laws further provides the authorities competent to make the appointment shall also lay down the requirements in terms

of educational or other qualifications, practical experience and appropriate age limit. It also provides for relaxation of the qualifications, in appropriate cases. Apart from the Bye-laws, rules and regulations have also been framed by the respondent. Rule 21 of the Rules provides that the Executive Committee shall exercise all or any other powers and functions of the Board subject to the general superintendence , direction and control of the Board. Staff Regulations have also been framed. Chapter II of the Staff Regulations, inter alia, deals with the appointing authority in relation to Class II, III and IV. The appointing authority for posts in Class III is the Executive Committee, as is otherwise indicated in the Bye-laws. A perusal of the aforementioned rules and regulations makes it clear that in so far as the posts in Class III is concerned, the Executive Committee is competent to lay down the qualifications as also the age limits. They did it originally before Exhibit-P3. The Executive Committee then thought that the age limit will have to be brought down to attain a parity with the maximum age which is prescribed, in the case of most of the posts in Government service.

4. Learned counsel for the respondent submits that apart from the same, it was noticed that the principles of communal reservation were not provided for in Exhibit-P3 and this was also rectified in Exhibit-P4.

In the circumstances, I am of the view that Exhibit-P4 cannot be interfered with on the ground that it was not preceded by a decision taken by the Board of Governors. Learned counsel for the respondent submits that Exhibit-P4 was preceded by a decision of the Executive Committee which is the competent authority in respect of the posts in Class III. In the circumstances, I do not find any illegality in Exhibit-P4. The writ petition is therefore, dismissed.

(V.GIRI, JUDGE)

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K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007